

TESTIMONY OF REP. SHARON ANGLIN TREAT
SPONSOR, LD 681, An Act To Improve Oversight of Insurance Rates and Ensure
Consistency with Federal Law

INSURANCE & FINANCIAL SERVICES COMMITTEE

APRIL 4, 2013

Senator Gratwick and fellow members of the Insurance and Financial Services Committee, I am Sharon Treat and I represent House District 79, Farmingdale, Hallowell and West Gardiner. I present for your consideration LD 681, *“An Act To Improve Oversight of Insurance Rates and Ensure Consistency with Federal Law.”*

One thing we can all agree on: health insurance is complex, and fixing the health insurance marketplace is no easy task. In the last two years two major reforms have been enacted that dramatically changed Maine’s insurance market: the Affordable Care Act and PL 90. Next week, there will be several bills to address how the ACA works in Maine and to make sure that Maine interests are represented in the implementation of the federally facilitated health exchange marketplace. Today, we have several bills, including LD 681, which seek to make targeted changes in PL 90 to address concerns that have come up as it has been implemented over the past year.

Certainly, it is no secret that I was no fan of PL90 and the manner in which it was adopted. I had concerns two years ago about many aspects of the law, including how rural areas of this state might be affected, and whether it was wise to repeal prior review and approval of rate hikes. I worried about the rating band changes, and questioned adopting provisions that on their face violated provisions of federal law.

I am not here today to try to roll back PL90. I am a pragmatist, and if I could characterize my overall approach to public policy, I’d say that I want to make sure that whatever we do actually works. I don’t elevate ideology over common sense, and I’m not interested in simply rolling back a law I didn’t like two years ago because now my political party is in the majority. That attitude makes no sense to me. What I do care about is fixing problems. And, with respect to PL 90, as well as the Affordable Care Act, I believe there are some problems – and that they can be fixed without too much difficulty. So my hope today is that the members of this committee, no matter what your individual position may have been on PL 90 or the ACA in the past, will share my problem-solving approach, set aside ideology, and work with me to make some modest changes.

Geographic area changes. It isn’t a coincidence that multiple bills being presented today address geographic rating band concerns, in a variety of ways. On average, the Bureau of Insurance paints a rosy picture of how PL90 has affected the state of Maine. Prices for more policies went down than before its passage, and average increases in 2012 for Anthem policies were small. If you read the fine print, though, you realize that an average price increase that’s not too bad masks the highs and lows—and the highs can be, and have been, *very* high. Moreover, those highs have hit in particular small businesses with older workers in the most economically challenged parts of the state. This is *NOT* a smart economic development strategy.

Insurance increases of more than 50% have hit many such businesses, as illustrated by the attached letter about a 67% increase for an Ellsworth nonprofit. Further, as this letter illustrates, Bureau of Insurance data reflecting overall price increases of purchased policies hide the reality – in this case a less comprehensive policy with a huge deductible moderated the ultimate price increase.

The point being, that statistics often don't tell either the human story or the true outcome of a policy change.

LD 681 seeks to moderate the impact of the geographic rating by setting the 3:1 ratio between high and low rates as a ceiling for all rating factors. PL90 not only expanded the rating bands, but it also allowed those factors, such as age, geography and tobacco use, to be stacked on top of each other so that in effect the 3:1 ratio could be much higher. There are other approaches to this problem-- proposals before us today would eliminate the geographic rating factor altogether or treat the entire state as one geographic rate. I don't know the best approach and I look forward to analysis by the actuaries at the BOI to determine how each of these proposals may affect rates in different areas of the state.

LD 681 also repeals some provisions of PL90 that flat-out violate federal law. I hope this isn't controversial; at the time it passed, there remained hope among some PL90 proponents that the ACA would be repealed or ruled unconstitutional. That hasn't happened, so this bill fixes some problematic provisions in Maine law allowing rating bands above the 3:1 limit set in the ACA.

Smokers' surcharge. The bill also authorizes the Superintendent of Insurance to adopt rules regarding rating based on tobacco use, fixing a provision in the ACA that allows insurance companies to charge smokers 50 percent more than patients who do not use tobacco, but that fails to carve out those who are in good faith trying to quit. LD 681 would not permit rate variation that would penalize an individual who participates in a smoking cessation program or who is not provided the opportunity to participate in one. Although under the ACA low- and middle-income tobacco users will get premium subsidies to make health insurance more affordable, that government assistance would not apply to the tobacco surcharge, leaving the smoker to foot the bill. One analysis, prepared by the nonpartisan Institute for Health Policy Solutions, estimated that the tobacco surcharge could cause a low-income individual's annual premiums to jump from \$708 to \$3,308. LD 681 perhaps doesn't go far enough to address this issue; I hope the committee can look at this question with fresh eyes and consider if the penalty is too high.¹

Prior review of rate increases. LD 681 also restores the statutory process for advance review and prior approval of individual health insurance rates and repeals the changes to the rate review process for individual health insurance made by PL90. The bill restores the authority of the Attorney General to cause a hearing to be held, a process that worked well in the past. The bill also extends the same process for advance review and prior approval for small group health insurance rates.

Conclusion. LD 681 makes targeted changes in the way PL90 works. My intent is to moderate the substantial rate increases caused particularly in Maine's north and east, to treat smokers fairly and help assure that they will be able to afford the very health policies that will cover cessation treatment, and to restore advance review and oversight of rate increases. These are modest change in how PL90 works that will improve the lives of Maine people and assist our small businesses, and I ask for your support. Thank you.

¹ <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/02/18/big-tobacco-and-anti-cancer-activists-agree-health-provision-goes-too-far>